

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

KATHRYN BAUMAN RUBENSTEIN,)	
)	
PLAINTIFF,)	
)	
VS.)	CIVIL CASE NO.: 1:07cv798-MHT
)	
BETTY JO BAUMAN, et al.,)	
)	
DEFENDANTS.)	

**OBJECTION TO PLAINTIFF'S MOTION FOR LEAVE TO FILE THIRD
AMENDED COMPLAINT**

COME NOW the Defendants, Marilyn Bauman Granger, Bennie Wayne Granger, Granger Limited, Inc., Barbara Bauman Kamensky and Allen E. Kamensky and respectfully request an Order denying Plaintiff's Motion for Leave to File Third Amended Complaint on the following grounds:

1. The Plaintiff has been afforded three opportunities in Federal Court and countless opportunities in State Court to state a viable cause of action against these Defendants. *See* (Doc. 1, 3, 108). All of the Defendants have spent considerable time and money responding to those complaints and seeking their dismissal.

2. Magistrate Judge Wallace Capel, Jr. recognized that Plaintiff's pleadings were fatally deficient and recommended to this Court that her complaints, as amended, be dismissed with prejudice for lack of subject matter jurisdiction based on the *Rooker-Feldman* and *Younger* abstention doctrines. (Doc. 144).

3. Judge Capel ordered the parties to file any objections to his recommendations on or before December 17, 2007. (Doc. 144). None of the Defendants objected.

4. On December 18, 2007, one day late, Plaintiff filed a *Motion to Extend Time to Respond* to Judge Capel's recommendations. (Doc. 146). Judge Capel granted the motion and gave Plaintiff until on or before December 27, 2007 to file her objections. He cautioned that the Court would "not entertain any further extensions of time nor any untimely filed objections." (Doc. 147).

5. Instead of filing objections to Judge Capel's recommendations as ordered, the Plaintiff filed yet another amended complaint purporting to assert various new causes of action against existing and new defendants on behalf of not only herself, but her mother and brother as well. (Doc. 149).¹

6. Although Plaintiff added different facts and different parties in her third amended complaint, it is not substantively different in any meaningful way from the previous state and federal court complaints that Judge Capel and others have already seen fit to dismiss.

7. Rule 15(a) of the *Federal Rules of Civil Procedure* allows a party to amend her complaint only once as a matter of course. In all other cases, the party can amend only with the written consent of the opposing parties or with leave of court. That leave should be given when justice requires it.

8. The undersigned, on behalf of Defendants Marilyn Bauman Granger, Bennie Wayne Granger, Granger Limited, Inc., Barbara Bauman Kamensky and Allen E. Kamensky will not consent to the Plaintiffs' Third Amended Complaint and respectfully submits that justice will be undermined should yet another amendment be allowed. The

¹ The Plaintiff's attempt to file a *pro se* complaint on behalf of her mother and brother amounts to the unauthorized practice of law in Alabama. See ALA. CODE § 34-3-6; *Ex parte Ghafary*, 738 So. 2d 778 (Ala. 1998). Thus, her complaint is a nullity and her continued prosecution of the case in a representative capacity may amount to a crime. See *Andrews v. Hotel Reed Nursing Home*, 167 F.Supp. 2d 1333 n.2 (S.D. Ala. 2001).

latest pleading is nothing more than an attempt to breathe life into a dying campaign to harass, embarrass and humiliate these Defendants. Enough is enough.

WHEREFORE, based upon the foregoing, these Defendants pray that this Honorable Court will deny Plaintiff's motion to file her third amended complaint and consider the Magistrate's recommendations without objection.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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I further certify that I have served the following by placing a copy thereof

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